

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Freddie Louis Dillard,

Plaintiff,

v.

Civil No. 09-1564 (JNE/JJG)
ORDER

R.S. Eden Ashland and
Christina Bonkowski,

Defendants.

This case is before the Court on a Report and Recommendation (R&R) issued by the Honorable Jeanne J. Graham, United States Magistrate Judge, on December 8, 2009. The magistrate judge recommended that Plaintiff's application to proceed in forma pauperis be denied; that this action be summarily dismissed pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(ii) (2006); that Plaintiff be required to pay the unpaid balance of the Court filing fee, \$338.83, in accordance with 28 U.S.C. § 1915(b)(2); and that, for purposes of 28 U.S.C. § 1915(g), this action be dismissed "on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted." Plaintiff objected to the R&R.¹ The Court has conducted a de novo review of the record. *See* D. Minn. LR 72.2(b). Based on that review, the Court adopts the R&R. Therefore, IT IS ORDERED THAT:

1. Plaintiff's application to proceed in forma pauperis [Docket No. 2] is DENIED.
2. Plaintiff's objection [Docket No. 16] to the R&R [Docket No. 15] is OVERRULED.
3. This action is SUMMARILY DISMISSED without prejudice pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(ii).

¹ Plaintiff also appealed the R&R to the United States Court of Appeals for the Eighth Circuit on January 5, 2010. The Eighth Circuit dismissed the appeal for lack of jurisdiction on March 24, 2010.

4. The prison officials at the institution where Plaintiff is incarcerated shall pay the remaining balance of the Court filing fee, \$338.83, from Plaintiff's account to the Clerk of Court in the manner prescribed by 28 U.S.C. § 1915(b)(2).
5. The Clerk of Court shall send copies of this Order to Plaintiff and to the prison officials at the institution where Plaintiff is incarcerated.
6. For purposes of 28 U.S.C. § 1915(g), this action is dismissed "on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted."

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 4, 2010

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge